

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA, :
: Plaintiff, :
v. : : Criminal Action No. 07-131-LPS
: JUAN CARBAJAL-MAGANA, :
: Defendant. :
:

DEFENDANT'S MOTION TO WITHDRAW
ORAL MOTION FOR A PSYCHIATRIC EVALUATION

Defendant, Juan Carbajal-Magana, by and through his attorney, Keir Bradford, Assistant Federal Public Defender for the District of Delaware, hereby moves this Court to, withdraw the oral motion for a court ordered competency evaluation pursuant to 18 U.S.C. § 4241 and § 4247 (b) and (c) and requests an arraignment hearing be scheduled.

In support of this motion, Mr. Carbajal-Magana submits as follows:

1. October 4, 2007 Mr. Carbajal- Magana was arrested and charged with illegal re-entry in violation of Title 8, U.S.C. § 1326(a).
2. On October 5, 2007, an initial appearance was held in front of Magistrate Judge Leonard P. Stark. After the hearing, defense counsel and Ms. Lane, official court interpreter, had further conversations with Mr. Carbajal- Magana, at which time it became apparent that he may have been suffering from some form of mental illness. Based on statements made by Mr. Carbajal-Magana, he appeared to be delusional and disoriented, which led counsel to inform the Court, at the Detention Hearing held on October 11, 2007.

3. On October 24, 2007, counsel visited Mr. Carbajal-Magana at the Federal Detention Center in Philadelphia PA. After this visit it became clear that he does in fact understand the charges against him, enough to assist in the preparation of his own defense. Additionally, Mr. Carbajal - Magana informed counsel that prior to his arrest, he had consumed a large quantity of drugs and/or alcohol, which may have affected his mental state.

4. I have spoken to Assistant United States Attorney, Ms. Lesley Wolf, who is handling the case for the government and she has no objection to this request.

WHEREFORE, for the foregoing reason, and any that shall appear to the Court, the Defense respectfully requests that the Court grant the Motion to Withdraw the Oral Motion for Juan Carbajal-Magana.

Respectfully submitted,

/s/ Keir Bradford
KEIR BRADFORD
Assistant Federal Public Defender
One Customs House
704 King Street, Suite 110
Wilmington, DE 19801
(302) 573-6010
ecf_de@msn.com

Attorney for Juan Carbajal-Magana

Dated: October 25, 2007

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: :
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: Defendant. :
:

ORDER

The Court having considered Defendant's Motion for withdrawal of court ordered Oral Motion;

IT IS HEREBY ORDERED this _____ day of _____, 2007, that defense counsel's Oral Motion pursuant to 18 U.S.C. §§ 4241 and 4247(b) and (c), be withdrawn.

IT IS FURTHER ORDERED that any subsequent psychiatric report prepared by an examiner hired by the Federal Public Defender's Office be turned over to the United States Attorney's Office and the Court.

Honorable Leonard P. Stark
United States District Court

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